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9 UNITED STATES DISTRICT COURT  
10 DISTRICT OF NEVADA  
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12 JEFFREY S. PATERSON, ) 3:11-cv-00845-HDM-WGC  
13 Plaintiff, )  
14 vs. ) ORDER  
15 PATTERSON, et al., )  
16 Defendants. )  
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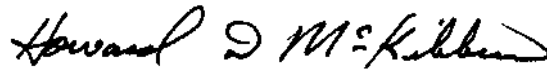
18 Before the court is the plaintiff's motion pursuant to Federal  
19 Rule of Civil Procedure 60(b) (#153). Defendants have opposed  
20 (#154), and plaintiff has replied (#155).

21 Plaintiff appealed this court's orders and judgment on August  
22 26, 2014. The matter remains pending before the Court of Appeals.  
23 The court lacks jurisdiction to consider a Rule 60(b) motion filed  
24 after a notice of appeal is filed and therefore cannot consider the  
25 instant Rule 60(b) motion. *Katzir Floor & Home Designs, Inc. v.*  
26 *M-MLS.com*, 394 F.3d 1143, 1148 (9th Cir. 2004); *Gould v. Mutual*  
27 *Life Ins. Co.*, 790 F.2d 769, 772 (9th Cir. 1986). In order to  
28 properly put his Rule 60(b) motion before this court, the plaintiff

1 must first "ask the district court whether it wishes to entertain  
2 the motion, or to grant it, and then move [the Court of Appeals],  
3 if appropriate, for remand of the case." *Williams v. Woodford*, 384  
4 F.3d 567, 586 (9th Cir. 2004). The court construes defendant's  
5 motion as a request for the court to advise whether it wishes to  
6 consider plaintiff's Rule 60(b) motion. So construed, the court  
7 advises the plaintiff it declines to entertain or grant plaintiff's  
8 Rule 60(b) motion.

9 **IT IS SO ORDERED.**

10 DATED: This 16th day of December, 2015.

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12 UNITED STATES DISTRICT JUDGE  
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